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240 County Road  
Ipswich, MA 01938  
Telephone (978) 380-7373  
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DATE: February 24, 2006

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TO: Commissioner for Patents  
ATTN: Examiner Holly Schnizer  
FAX NO: (703) 872-9306  
(571) 273-8300  
FROM: Harriet M. Strimpel, D. Phil. *HS*  
FAX NO: (978) 380-7475

SUBJECT: Application Serial No. 09/937,070  
International Filing Date: September 29, 2002  
Our Docket No.: NEB-177-PUS

Please see attached supplemental response after final rejection.

Thank you.

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PATENT

Practitioner's Docket No. NEB-177-PUS

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Thomas C. Evans, Ming-qun Xu

Application No.: 09/937,070

Group No.: 1656

Filed: 01/29/2002

Examiner: Schnizer

For: Method for Producing Circular or Multimeric Protein Species *in vivo* or *in vitro* and Related Methods

RESPONSE UNDER  
37 C.F.R. § 1.116  
EXPEDITED PROCEDURE  
EXAMINING GROUP

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## SUPPLEMENTAL RESPONSE AFTER FINAL REJECTION--TRANSMITTAL

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. § 1.8(a)

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## TRANSMISSION

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571-273-8300

Signature

Leslie Goldberg

(type or print name of person certifying)

\* Only the date of filing ( ' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" ( ' 1.10) or facsimile transmission ( ' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

1. Transmitted herewith is a supplemental response after final rejection (37 C.F.R. 1.116) for this application.

### STATUS

2. Applicant is a small entity. A statement was already filed.

### EXTENSION OF TERM

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply. Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

### FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. 1.16(b)-(d)) has been calculated as shown below:

|                                                | (Col.1)                                   |       | (Col. 2)                             | (Col. 3)         |      | SMALL ENTITY |               |      |
|------------------------------------------------|-------------------------------------------|-------|--------------------------------------|------------------|------|--------------|---------------|------|
|                                                | CLAIMS<br>REMAINING<br>AFTER<br>AMENDMENT |       | HIGHEST NO<br>PREVIOUSLY<br>PAID FOR | PRESENT<br>EXTRA |      | RATE         | ADDIT.<br>FEE |      |
| TOTAL                                          | 22                                        | MINUS | 22                                   | = 0              | x \$ | 25.00        | = \$          | 0.00 |
| INDEP                                          | 4                                         | MINUS | 4                                    | = 0              | x \$ | 100.00       | = \$          | 0    |
| FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM |                                           |       |                                      |                  | +    | \$ 0.00      | = \$          | 0.00 |
| TOTAL                                          |                                           |       |                                      |                  |      |              | \$            | 0.00 |
| ADDIT. FEE                                     |                                           |       |                                      |                  |      |              |               |      |

No additional fee for claims is required.


### FEE DEFICIENCY

5. If any additional extension and/or fee is required, charge Account No. 14-0740.

If any additional fee for claims is required, charge Account No. 14-0740.

6. A notice of appeal was filed on January 30, 2006.

Date: February 24, 2006

  
 Harriet M. Strimpel, D.Phil.  
 Registration No. 37,008  
 New England Biolabs, Inc.  
 240 County Road  
 Ipswich, MA 01938  
 978-380-7373  
 Customer No. 28986

Docket: NEB-177PUS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Evans et al.

EXAMINER: Schnizer

SERIAL NO.: 09/937,070

GROUP: 1653

FILED: January 29, 2002

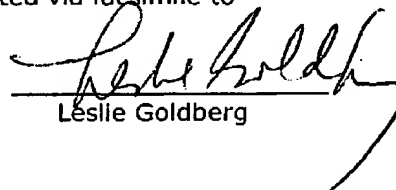
FOR: Method for Producing Circular or Multimeric Protein Species  
*in vivo* or *in vitro* and Related Methods

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Commissioner for Patents  
P.O. Box 1450  
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Leslie Goldberg

Sir:

**SUPPLEMENTAL RESPONSE**

The Examiner has allowed claims 1-11, 13, 15 and 17-19. The Examiner has again rejected claim 12 and dependent claims 14 and 16 in an advisory action dated February 17, 2006 because of deficiencies in the 37 C.F.R. §1.131 declaration submitted in response to the final office action. The attached declaration repairs the deficiencies by attaching signed laboratory notebook pages with an accompanying explanation. Although the statutory period after final expired on

February 1, 2006, Applicants filed a notice of appeal dated January 30, 2006.

The 37 C.F.R. §1.131 declaration was not submitted prior to the response after final office action because initially, the Examiner had rejected the claims under 35 U.S.C. §102(b) citing the Scott reference which was published less than a year prior to the filing date of the above application. The rejection was subsequently changed to a 35 U.S.C. §102(a) rejection. This was rebutted by a 37 C.F.R. §1.131 declaration in which deficiencies occurred which are here corrected.

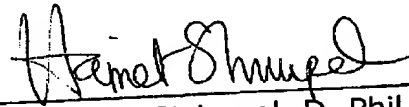
For the reasons set forth above, Applicants respectfully request that the rejection set forth in the Advisory Action dated February 17, 2006, be withdrawn and submit that this case is in condition for immediate allowance.

Respectfully submitted,

NEW ENGLAND BIOLABS, INC.

Date: February 24, 2006

Customer No.: 28986

  
Harriet M. Strimpel, D. Phil.  
(Reg. No.: 37,008)  
Attorney for Applicant  
240 County Road  
Ipswich, MA 01938  
(978) 380-7373